

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	NO. 3:17-cr-00238
v.)	JUDGE RICHARDSON
)	
TAVARIE ALEXANDER WILLIAMS)	

ORDER

Pending before the Court is Defendant's "Motion for Permission to Late-File a Motion to Suppress" (Doc. No. 95, "Motion for Leave to File"), to which the Government has responded in opposition (Doc. No. 109). For two reasons, the Motion is **DENIED**.

First, the request is quite tardy. It was filed (on September 17, 2019), almost 15 months after the original pretrial motions deadline of June 21, 2018. That deadline was extended (Doc. No. 22) to October 2, 2018 based on Defendant's motion (Doc. No. 19) filed the very date the deadline was set to expire. Having received a very late reprieve of that deadline, Defendant took advantage of it, filing seven pretrial motions (Doc. No. 32, 34, 35-38, 40), including a motion to suppress the fruits of the search of one room in the motel where he was staying when arrested based on the events at issue in this prosecution. After, among other things, a suppression hearing on August 22, 2019, the Court resolved all seven motions, with the last two being resolved by Order (Doc. No. 94) entered on September 10, 2019. One week later, via the Motion for Leave to File, Defendant indicated, for the first time, his desire to suppress the fruits of the search of a different room (Room 115) at the motel.

The Motion for Leave to File is simply too tardy to be cognizable. It is one thing to need to scramble for an extension on the very day motions are due; the Court was understanding to those circumstances in this case. It is also one thing to request leave to file a motion shortly after the

pretrial motions deadline expired. But it is quite another to request such leave almost a year after the deadline expired. That is simply too late to comport with the Court's need to manage its docket in an orderly fashion. It is also too late to comport with the Court's imperative to not further delay the trial, which would impair the right "to proceedings free from unreasonable delay," 18 U.S.C. § 3771(a)(7), possessed by the alleged minor victim ("person A") of the crimes charged in Counts 2 and 3. Defendant had his opportunity to file and litigate motions, and that opportunity (which in fact bore Defendant some fruit) has now passed.

In addition, Defendant has failed to convince the Court that the suppression motion he seeks to file would be anything other than futile. As Defendant recognizes, he faces the crucial obstacle of establishing standing to assert a violation of his Fourth Amendment rights with respect to Room 115, where Defendant's brother (and not Defendant) was staying at the time. (Doc. No. 95 at 2-3). To persuade the Court that he can meet this obstacle, Defendant points to the fact that a defendant generally has standing to challenge a search of premises where Defendant was an overnight guest. (*Id.* at 3). But this fails to help Defendant, who does not even claim to have been an overnight guest in Room 115. Defendant claims that he should be treated like an overnight guest in his brother's room, since he (Defendant) was staying in a room elsewhere at the motel and (allegedly) had freedom to enter and use the room at any time. But Defendant cites no authority for this equivalency, and the Court would not expect any such authority to exist. This is because a casual, transient visitor does not have standing to challenge a search of the premises, *see United States v. Harris*, 255 F.3d 288, 295 (6th Cir. 2001), and because standing is properly denied absent evidence that the defendant intended to stay overnight at the premises. *United States v. Berryhill*, 352 F.3d 315, 317 (6th Cir. 2003). The Court understands that counsel felt the need to file the Motion for Leave to File based on her client's "strong belief" that "*his* Constitutional right[s]"

were violated by the seizing of evidence from Room 115. (Doc. No. 95 at 1) (emphasis added). But the fact that a lay defendant's "belief" as to such matters is "strong" does not make the belief correct or even minimally supported, and in this case any such belief is unsupported as to the threshold issue of standing. Thus, the Court alternatively denies the Motion for Leave to File on the grounds of futility.

IT IS SO ORDERED.


ELI RICHARDSON
UNITED STATES DISTRICT JUDGE